



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 31, 1997

Ms. Y. Qiyamah Taylor
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR97-0223

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 103538.

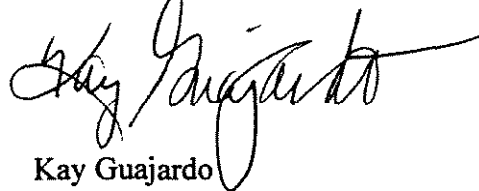
The City of Houston (the "city") received a request for several offense reports. You assert that the reports are excepted from required public disclosure based on Government Code sections 552.101 and 552.108.

Section 552.101 excepts from disclosure information that is confidential by law. This provision incorporates the common-law right to privacy. The common-law right to privacy protects from public disclosure information that is highly intimate or embarrassing and of no legitimate concern to the public. *See Indus. Found. v. Texas Industrial Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The privacy interest in criminal history record information has been recognized by federal regulations and case law. *See* 28 C.F.R. § 20; *United States Dep't of Justice v. Reporters Comm. For Freedom of the Press*, 489 U.S. 749 (1989). Furthermore, the release of "the personal history and arrest records" of criminal suspects has been held to constitute an unwarranted invasion of an arrestee's privacy. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). We believe a compilation of offense reports relating to the arrests of a named individual to be criminal history record information, the release of which implicates the privacy right of the named individual. Accordingly, the city must not release to the requestor the reports in which the named individual is a suspect. Gov't Code § 552.101.

As for the reports in which the named individual is not a suspect, we consider your section 552.108 claim. Section 552.108 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution. Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). We believe section 552.108 is applicable to the offense reports. We therefore conclude that except for front page offense report information, section 552.108 of the Government Code excepts the requested records from required public disclosure.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 103538

Enclosures: Submitted documents

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(w/o enclosures)